

CLEAN WATER ACT2-14-A. Civil Judicial Enforcement and Administrative Penalty Collection Actions**1. AUTHORITY.**

- a. To cause civil judicial actions to be commenced or to intervene in suits commenced pursuant to the Clean Water Act.
- b. To request the Attorney General to appear and represent the agency in any civil enforcement action, including actions to collect unpaid penalties, instituted under the CWA.
- c. To request the AG to decline to prosecute a previously referred civil judicial action or cease prosecution of a previously filed civil judicial action.
- d. To appear and represent the agency in any CWA action, exclusive of appeals, where the AG has refused or failed to appear and represent the agency.

2. TO WHOM DELEGATED.

- a. Authorities 1.a. – 1.c. are delegated to the director, Enforcement and Compliance Assurance Division.
- b. Authority 1.d. is delegated to the regional counsel.

3. LIMITATIONS.

- a. Any official exercising the authorities in 1.a. – 1.c. must obtain the advance concurrence of the RC or designee on the legal sufficiency of the action. The RC may waive concurrence in writing.
- b. Any official exercising these authorities must notify the assistant administrator for the Office of Enforcement and Compliance Assurance prior to exercising the authorities in 1.a. and 1.c., and when exercising the authority in 1.b. The AA for OECA may waive the requirement for notification in writing.

4. REDELEGATION AUTHORITY.

- a. The authorities in 1.a. – 1.c. may be redelegated to the branch chief level, or equivalent, and no further. The authority in 1.d. to represent the agency may be redelegated to the staff attorneys.
- b. An official who redelegates an authority retains the right to exercise or withdraw the authority. Redelegated authority may be exercised by any official in the chain of command down to the official to whom it has been specifically redelegated.

5. ADDITIONAL REFERENCES.

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- a. Memorandum of Understanding between the agency and the Department of Justice, June 1977, 42 Fed. Reg. 48942 (1977).
- b. Direct referral agreement memorialized in letter of September 29, 1983, from Alvin L. Alm, Deputy Administrator, to F. Henry Habicht, Assistant Attorney General, regarding direct referrals; Sections 309, 311, 402(h), 504 and 506 of the CWA.
- c. For referrals of requests for emergency CWA Temporary Restraining Orders, see the Chapter 2 delegation entitled "Emergency Temporary Restraining Orders."



Debra H. Thomas
Acting Regional Administrator

APR 29 2019

Date